



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 11-573

Released: March 30, 2011

**TORONTO ASIA TELE ACCESS TELECOM, INC. REQUESTS A RULING REGARDING
APPLICATION OF SECTIONS 214 AND 254 TO ITS PROVISION OF INTERNATIONAL VOIP
PEERING AND DISTRIBUTION OF PRIVATE LABEL PREPAID CALLING CARDS**

IB Docket No. 11-58

PLEADING CYCLE ESTABLISHED

Comments Due: April 29, 2011
Replies Due: May 16, 2011

Toronto Asia Tele Access Telecom, Inc. ("Petitioner") seeks a declaratory ruling that it is and has been lawfully operating as an international service provider since 2006, has not been required to obtain authorization for the services it is providing from the Commission under section 214 of Communications Act of 1934, as amended (the "Act"),¹ and has not been obligated to report or contribute to the federal Universal Service Fund (USF) under section 254 of the Act and the Commission's rules and requirements.²

Petitioner, a Canadian company, provides service in the United States under the name "TATA Telecom." It states that it entered the U.S. market in 2006 as a private label distributor of prepaid calling cards, and that it presently provides prepaid calling cards to its U.S. distributors and provides IP-enabled calling, SMS and web dialing through its websites to U.S. customers. Petitioner does not currently hold international section 214 authority to provide international services,³ has not registered with the Commission,⁴ and does not contribute to the USF.⁵

¹ 47 U.S.C. § 214.

² 47 U.S.C. § 254.

³ Petitioner does have a pending application requesting international section 214 authorization to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(1), (2). See ITC-214-20100907-00357.

⁴ See 47 C.F.R. § 64.1195.

⁵ See 47 C.F.R. § 54.706.

Petitioner is involved in ongoing trademark litigation regarding use of the name “TATA.”⁶ According to Petitioner, a central, and potentially dispositive, issue in that litigation is the lawfulness of the services it has been providing in the United States; in other words, whether it needs section 214 authority to provide such services and whether it must contribute to the USF based on the provision of those services. Petitioner states that it has filed a Motion to Stay with the court pending Commission action on its petition.

Specifically, Petitioner seeks a ruling from the Commission that (1) it has been lawfully operating as an international service provider since its entry into the U.S. market in 2006 as a private label prepaid calling card distributor; (2) it has been lawfully providing international service through its VoIP peering arrangements; (3) it is not providing a telecommunications service that requires authorization pursuant to section 214; and, (4) it is not required to file reports for or contribute to the USF.

EX PARTE STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission’s rules,⁷ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission’s rules.⁸

We direct parties making oral *ex parte* presentations to the Commission’s statement re-emphasizing the public’s responsibility in permit-but-disclose proceedings.⁹ Parties are reminded that memoranda summarizing the presentation must contain the presentation’s substance and not merely list the subjects discussed.¹⁰ More than a one- or two-sentence description of the views and arguments presented is generally required.¹¹ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.¹² We urge parties to use the Electronic Comment Filing System (ECFS) to file *ex parte* submissions.

GENERAL INFORMATION

Interested parties must file comments no later than **April 29, 2011**. Replies to such pleadings must be filed no later than **May 16, 2011**. All filings concerning matters referenced in this Public Notice should refer to DA 11-573 and IB Docket No. 11-58.

⁶ Toronto Asia Tele Access Telecom Inc. and Manmohan Sing Thamber v. Tata Sons Limited, No. CV 09-01356 RSM (W.D. Wash. filed Sept. 29, 2009).

⁷ 47 C.F.R. § 1.1200(a).

⁸ *Id.* § 1.1206.

⁹ See Commission Emphasizes the Public’s Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd 19945 (2000).

¹⁰ *Id.*

¹¹ See 47 C.F.R. § 1.1206(b)(2).

¹² *Id.* § 1.1206(b).

Under the Commission's current procedures for the submission of filings and other documents,¹³ submissions in this matter may be filed electronically (i.e., through ECFS) or by hand delivery to the Commission.

- If filed by ECFS,¹⁴ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail.
- If filed by paper, the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at FCC@BCPIWEB.COM or (202) 488-5563 (facsimile).

Additionally, filers must deliver courtesy copies by email to the following Commission staff:

- 1) David Krech, Policy Division, International Bureau, at david.krech@fcc.gov;
- 2) Carrie-Lee Early, Policy Division, International Bureau, at carrie-lee.early@fcc.gov;
- 3) Jodie May, Competition Policy Division, Wireline Competition Bureau, at jodie.may@fcc.gov;
- 4) Carol Pomponio, Telecommunications Access Policy Division, Wireline Competition Bureau, at carol.pomponio@fcc.gov; and,
- 5) Edward Smith, Investigations & Hearings Division, Enforcement Bureau, at edward.smith@fcc.gov.

Copies of the Petition and related filings as well as any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The Applications and any associated documents are also available for

¹³ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd 21483 (2001); FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, 24 FCC Rcd 14312 (2009).

¹⁴ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998).

public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The Applications also are available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

People with Disabilities: To request this Public Notice in accessible formats (computer diskette, large print, audio recording, and Braille), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For further information, contact David Krech or Carrie-Lee Early, Policy Division, International Bureau, at (202) 418-1460.

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